

App. Serial No 10/529,731
GB020239US1

REMARKS

Claims 1-10 are currently pending in the patent application. For the reasons and arguments set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

In the instant Office Action dated July 9, 2007, the following rejections are noted: claims 1-10 stand rejected under 35 U.S.C. 112(2) and claims 1-10 stand rejected under 35 U.S.C. 103(a) over Japanese Patent Publication (05-343691) to Yuji *et al.*

Applicant respectfully traverses the Section 112(2) rejection of claims 1-10 because the claims do particularly point out and distinctly claim the subject matter which Applicant regards as the invention. It appears to Applicant that the Examiner has not asserted that any specific claim language is indefinite, but rather that limitations be inserted in order to address ancillary questions raised, such as "What other channel configurations may be generated by the second gate, and how do any additional configurations integrate with the vertical channel portion?" It appears that the Examiner is attempting to limit the breadth of the claims by improperly asserting indefiniteness because the claims are not worded as the Examiner would prefer. Such an assertion is contrary to M.P.E.P. § 2173.04 because the "(b)readth of a claim is not to be equated with indefiniteness." *See In re Miller*, 441 F.2d 689 (CCPA 1971). The scope of the claims would be clear to one of skill in the art, thus the claims are definite. *See, e.g.*, M.P.E.P. § 2171. Accordingly, the Section 112(2) rejection of claims 1-10 is improper and Applicant requests that it be withdrawn.

Applicant respectfully traverses the Section 103(a) rejection of claims 1-10 because the English translation of the Yuji reference provided with the Office Action is insufficient to allow Applicant to determine the propriety of the rejection. According to M.P.E.P. § 706.02, "If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection." Applicant is unable to determine the propriety of the rejection because the provided English translation of Yuji is incomplete and nonsensical. For example, the translation states in relation to Figure 5 (which was cited by the Office Action) that "if it carries out like this

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drawing 5, since the potential of the electrode 21 in a slot 16 will become higher than the gate electrode 18 in drawing 1 -- pressure-proofing -- the field strength of a slot side attachment wall -- not being decided -- p mold -- a well -- a field 11 to n+”. In another example, the provided translation contains numerous incomplete sentences. As such, Applicant is unable to ascertain what the Yuji reference teaches and is thus unable to determine the propriety of the rejection. Therefore, the Section 103(a) rejection of claims 1-10 is improper and Applicant requests that it be withdrawn. Should any rejection based upon the Yuji reference be maintained, Applicant requests a complete and accurate English translation of Yuji and an opportunity to respond thereto.

Applicant further traverses the Section 103(a) rejection of claims 1-10 because the cited portions of the Yuji reference, to the extent they are understandable, do not appear to correspond to numerous aspects of the claimed invention. Regarding claim 1, the Office Action has not cited to any portion of Yuji as allegedly corresponding to a plurality of electrically parallel transistor cells. Regarding claim 2, the Office Action has not cited to any portion of Yuji as allegedly corresponding to the second gate being located on top of the trench that forms the first gate. Contrary to the Examiner's implication, Yuji's Figure 5 does not show that gate electrode 22 is located on top of electrode 21. Regarding claim 3, the Office Action has not cited to any portion of Yuji as allegedly corresponding to the second gate having an insulated trench-gate portion and an insulated planar gate portion. Contrary to the Examiner's implication, Yuji's Figure 5 does not show that gate electrode 22 has an insulated trench-gate portion. Accordingly, the Section 103(a) rejection of claims 1-10 is improper and Applicant requests that it be withdrawn.

In view of the issues presented above, should any rejection based upon the Yuji reference be maintained, Applicant respectfully requests an opportunity to respond thereto. According to M.P.E.P. § 706.07, “Before final rejection is in order a clear issue should be developed between the examiner and applicant.” Applicant submits that a clear issue has not been developed between Applicant and the Examiner due to the lack of a complete and accurate English translation of the Yuji reference and in view of the above discussion. Accordingly, should any rejection based upon Yuji be maintained, Applicant should be afforded an opportunity to respond.

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Applicant notes that amendments have been made to the claims to address multiple claim dependencies and to remove reference numbers. These amendments are not being made to overcome the rejections raised by the Office Action, which fail for the reasons discussed above.

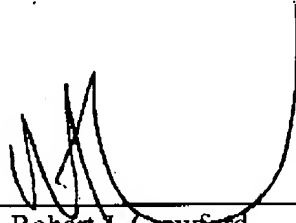
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In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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